

## **Remarks/ARGUMENTS**

In response to the above-identified Final Office Action, Applicants have amended their application and respectfully request reconsideration thereof.

### **Amendment of Claims**

Claims 1 and 14 have been amended to recite subject matter that depends on a technology and is manipulated by the technology. Specifically, the phrase, “the computer to perform” has been appropriately recited in the aforementioned claims. Applicants acknowledge that an amendment to any finally rejected claim cannot be entered as a matter of right; however, claim amendments may be entered where they merely adopt examiner’s suggestions; remove issues for appeal or, in some other way, require only a cursory review. Applicants believe their proffered amendments will require a cursory examination by their Examiner and have placed their claims in condition for allowance.

### ***Response to Claim Rejections – 35 USC § 101***

Claims 1-26 stand rejected under 35 U.S.C. § 101 because the claims are allegedly directed towards subject matter that is not within the technological arts and are therefore non-statutory. Specifically, the Final Office Action states, “independent claims 1 and 14 meet the tests for being useful, tangible and concrete, but have no technology and are therefore not statutory.”

Claim 1 includes the following limitations:

A method of using a computer for processing customer interaction records within a customer interaction system, the method including:

receiving an interaction record including interaction information describing a customer interaction, the computer to perform the receiving;

identifying a cumulative record to which the interaction record contributes, the computer to perform the identifying; and

modifying the cumulative record to reflect the interaction information contained within the interaction record, the computer to perform the modifying.....

The Final Office Action, in rejecting claim 1, states

In the present application, Independent claims 1, and 14 meet the tests for being useful, tangible and concrete, but have a minimal recitation of technology in the preamble, but do not disclose any manipulation by the technology or depend on the technology and are therefore not statutory.

Office Action, Paragraph 10.

Further the Final Office Action references the Toma case as follows:

In *Toma*, the claimed invention was a computer program for translating a source human language (e.g., Russian) into a target human language (e.g., English). The court found that the claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer (emphasis added).

Final Office Action, end of Section 8 Citing *In re Toma*, 575 F.2d 872, 197 USPQ 852 (C.C.P.A. 1978).

Claim 1 requires a computer to perform the receiving, identifying and modifying.

For example, the recited computer receives an interaction record, identifies a cumulative

record, and modifies the cumulative record. It follows that claim 1 is within a “technological art” because claim 1 recites at least three computer-implemented operations (e.g., the receiving, the identifying and the modifying are performed by the computer, within the computer). Consequently, claim 1 should not be rejected for the reason that it does not disclose any manipulation by a technology or dependence on the technology because claim 1 requires the computer to perform the receiving, the identifying and the modifying.

In summary, claim 1 does is not directed towards subject matter that is not within the technological arts as required to support a rejection of this claim under 35 U.S.C. § 101.

Independent claim 14 includes a limitation corresponding substantially to the above-discussed limitation of claim 1. Accordingly, Applicants request that the above remarks and amendments contained herein also be considered when examining these other independent claims for allow ability.

As dependent claims are deemed to include all limitations of claims from which they depend, the rejection of claims 2-13 and 15-26 under 35 U.S.C. 101 is also addressed by the above remarks.

In summary, Applicants believe that all rejections presented in the Final Office Action have been fully addressed and withdrawn of these rejections is respectfully requested. Applicants are mindful that their proposed amendments cannot, as a matter

of right, be entered. Nonetheless, Applicants believe that their proposed amendments requires only a cursory review by the Examiner to remove issues from appeal.

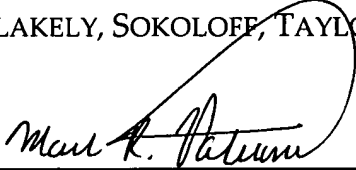
Applicants furthermore believe that all claims are now in a condition for allowance, which is earnestly solicited.

If there are any additional charges, please charge Deposit Account No. 02-2666.  
If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Mark Vatuone at (408) 947-8200.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 7/29, 2004

  
\_\_\_\_\_  
Mark R. Vatuone  
Reg. No. 53,719

12400 Wilshire Blvd.  
Seventh Floor  
Los Angeles, CA 90025-1026  
(408) 947-8200